

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 5:04-cr-00058-1

WILLIE L. DUMAS, III,

Defendant.

ORDER

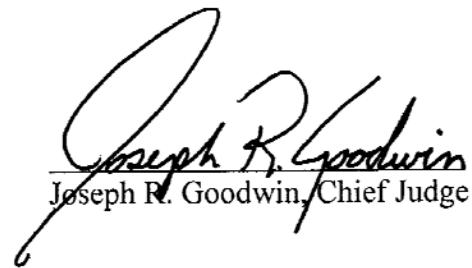
Pending before the court is the defendant's Motion for Retroactive Application of Sentencing Guidelines [Docket 185]. On November 1, 2007, the United States Sentencing Guidelines were amended to reduce by two levels the guidelines in Section 2D1.1 for cocaine base (also known as crack). Subsequently, the Sentencing Commission amended Section 1B1.10 to make the crack amendment retroactive, effective March 3, 2008.

Not every crack cocaine offender, however, is eligible for a lower sentence based on the amendment to Section 2D1.1. After reviewing the presentence investigation report and judgment order in this case, the court **FINDS** that the defendant is not eligible for a reduced sentence because he was a career offender, based on his prior convictions for other offenses, and accordingly his base offense level was assigned pursuant to Section 4B1.1. This offense level is unaffected by the amendment to Section 1B1.10. Accordingly, the defendant's motion is **DENIED**.

The Clerk is **DIRECTED** to send a copy of this Order to the Federal Public Defender, the

Defendant, the United States Attorney, and the United States Probation Office.

ENTER: May 15, 2009



A handwritten signature in black ink, appearing to read "Joseph R. Goodwin".

Joseph R. Goodwin, Chief Judge